



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
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February 18, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in January 2012; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA

by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during January 2012. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

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SECTION 1. DESCRIPTION OF ACTIVITIES FOR JANUARY 2012

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	<ul style="list-style-type: none"> The Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20th for their review and comment. 	No Data Submittal	No problems encountered.	90%
2. 2011 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	<ul style="list-style-type: none"> All 2011 FSAP activities were completed in November 2011. 	Continuous and ongoing updates to the database.	No problems encountered.	100%
3. Groundwater and Surface Water Monitoring	Hydrometrics	<ul style="list-style-type: none"> All 2011 Groundwater and Surface Water Monitoring events were completed in November 2011. The Custodial Trust authorized Hydrometrics to perform an analysis of injection and water supply wells on American Chemet property, including: inspection of well integrity; review of well logs; analysis of well and water usage practices; and compilation of existing water quality data. The Custodial Trust responded to a request for water quality data from a residential well owner on Gayle Street. 	No Data Submittal	No problems encountered.	100%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	<ul style="list-style-type: none"> Hydrometrics revised and updated the DMP and addend the QAPP. 	Revised DMP and QAPP were completed on August 2 nd .	No problems encountered.	100%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
5. Corrective Measures Study (CMS)	CH2M-Hill	<ul style="list-style-type: none"> ▪ EPA, USFWS, USDOJ, MDEQ, MDOJ, the Custodial Trust and CH2M Hill reviewed draft work and conceptual design plans for interim measures proposed for 2012 and 2013 related to South Plant Hydraulic Control (SPHC), including: construction of a temporary by-pass channel for the Prickly Pear Creek (PPC); removal of the smelter dam, berm and Upper Lake (UL) diversion structures; construction of an 11-acre CAMU in the Lower Ore Storage Area (LOSA) on Site; placement of excavated of Lower Lake (LL) and Tito Park sediments and soils into the proposed CAMU; and construction of a 30-acre Evapotranspirative (ET) cover system over the CAMU and surrounding LOSA. ▪ On January 11, the Custodial Trust provided EPA with summaries of PPC turbidity and UL, LL and PPC gage height data collected following the opening of the west headgate on the smelter dam. ▪ On January 17, CH2M Hill submitted a revised interim measures engineering implementation matrix and schedule for 2012 and 2013. ▪ On January 17, EPA, MDEQ, MDOJ, USDOJ, Montana Rail Link (MRL), the Custodial Trust and American Chemet (Chemet) met to discuss issues related to Chemet's existing operations and proposed expansion, including design of the Evapotranspirative (ET) cover system and cost/feasibility issues created by Air Liquide's pad and pipeline on SPHC interim measures, including PPP temporary by-pass and realignment. 	<p>The Custodial Trust provided EPA with summaries of PPC turbidity and gage height data on January 11th.</p> <p>CH2M Hill submitted revised IM engineering implementation matrix and schedule for 2012 and 2013 on January 17th.</p>	No problems encountered.	80%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)		<ul style="list-style-type: none"> On January 18, the Custodial Trust authorized CH2M Hill to proceed with engineering design of the ET cover system and on-Site CAMU, continued SPHC interim measure engineering and permitting and project management services through first quarter 2012. On January 19, EPA, MDEQ, MDOJ, USDOJ, the Custodial Trust and CH2M Hill reviewed the draft CMS work plan. During the week ending January 22, in connection with further lowering of UL and PPC water levels for the UL Aquifer Test, the Custodial Trust continued daily: collection of water level data in UL, LL and PPC (upstream and downstream of the dam); monitoring turbidity; and adjusting the west headgate on the smelter dam for prevailing flow rates. During the week ending January 22, the Custodial Trust and CH2M Hill continued discussions regarding contract requirements under which CH2M Hill could handle general contractor responsibilities and contracting for 2012 and 2013 work. The Custodial Trust and MDEQ met in January to discuss concerns and options for addressing State hazardous waste disposal fees and potential options for MDEQ to revise rule making to address the issue. 			

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
6. South Plant Hydraulic Control (SPHC)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> The Custodial Trust provided EPA with summaries of Prickly Pear Creek (PPC) turbidity and Upper Lake (UL), Lower Lake (LL) and PPC gage height data collected following the opening of the west headgate on the smelter dam. On January 10 and January 11, Hydrometrics oversaw the H&L Drilling's installation and completion of five piezometer wells to the east of PPC (depths ranging from 18 to 39 feet). The wells were drilled to better characterize hydrogeologic conditions to the east of PPC as well as to support the UL Aquifer Test and SPHC interim measure. From January 17 to January 19, Hydrometrics oversaw TS Consulting's excavation of seven (7) borings/test pits on the tertiary bench east of PPC. EH personnel continued weekly inspections of the condition and integrity of the UL diversion structure and smelter dam as part of the ongoing UL aquifer test. 			60%
7. Baseline Ecological Risk Assessment (BERA)	Gradient	<ul style="list-style-type: none"> On December 16, Gradient issued and distributed the final BERA report to the Custodial Trust and the beneficiaries. 	Final documents for the BERA were submitted on December 16 th .	No problems encountered.	100%
8. Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	<ul style="list-style-type: none"> On January 19, EPA provided comments to the Custodial Trust on the draft Screening Level Human Health Risk Assessment (SLHHRA) prepared by CH2M Hill. 		No problems encountered.	90%
9. Consent Decree Modification	Custodial Trust/DOJ	<ul style="list-style-type: none"> On January 17, the US District Court (District of Montana) entered the corrected First Modification to the 1998 Consent Decree (removing the reference to Parcel 5). 	No Data Submittal	No problems encountered.	100%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
10. Groundwater Technical Working Group (TWG)- Groundwater Model Work Plan	Custodial Trust/EPA/MDEQ/MDOJ	<ul style="list-style-type: none"> During the week ending January 22, the Custodial Trust initiated contract discussions with AMEC, the preferred team for groundwater modeling and hydrogeologic services. 		No problems encountered.	- %
11. Regulatory Compliance	Custodial Trust	<ul style="list-style-type: none"> On January 17, Mountain States Environmental Services removed the 55-gallon drum of hazardous waste (documents and records that were removed from CAMU #2 on September 26). Continued weekly inspections of health and safety systems, CAMU's, temporary liners and hazardous waste roll-offs . EH personnel completed monthly inspections of safety systems, winter systems and CAMU #1 	No Data Submittal	No problems encountered.	On Going
12. Health and Safety	Custodial Trust	<ul style="list-style-type: none"> No Health and Safety issues in January 2012. 	No Data Submittal	No problems encountered.	On Going
13. Documents and Records	Custodial Trust	<ul style="list-style-type: none"> On January 18, Hydrometrics requested an extension until April 1 for removal of their documents and records from the Site. 	No Data Submittal	No problems encountered.	On Going
14. Site Security	Custodial Trust	<ul style="list-style-type: none"> No site security issues in January 2012. 	No Data Submittal	No problems encountered.	On Going
15. Water Treatment Plant	Custodial Trust	<ul style="list-style-type: none"> EH personnel re-configured the ferric sulfate pipeline to the first stage reactor at the HDS water treatment plant. Lights in the HDS building were also repaired. EH personnel repaired a leak in the sodium sulfide pipeline to Neutralization Tank #2. 	WTP DMR's and 2011 Annual Report submitted on January 28 th .	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
16. Plant Operations	Custodial Trust	<ul style="list-style-type: none"> EH personnel continued the Mondri piping inventory for salvage and sale of scrap material. The Custodial Trust submitted to EPA the final terms for sale of the rotary melter and oxygen tank to Chemet for a total purchase price of \$16,000. The Custodial Trust was notified by the City of East Helena of plans by Montana Rail Link to perform repairs to the train trestle at PPC crossing. EH personnel inspected wind damage to the bulkheads on the Ore Storage & Handling Building and requested Custodial Trust/EPA guidance on protocols for repairing such damage in the future. 	No Data Submittal	No problems encountered.	On Going
17. Personnel and Office Operations	Custodial Trust	<ul style="list-style-type: none"> The Custodial Trust finalized plans for follow-up on procurement, logistics and siting modular offices at the EH Site. The Custodial Trust began exploring potential candidates to handle project controls and management support for the EH team. 	No Data Submittal	No problems encountered.	On Going
18. Financial Affairs	Custodial Trust	<ul style="list-style-type: none"> On January 19, EPA approved the 2012 East Helena Cleanup (EHCUC) account budget forecast. 	No Data Submittal	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
19. Property Use/ Development	Custodial Trust	<ul style="list-style-type: none"> ▪ The Custodial Trust distributed copies of the draft report on the former Asarco Manager's House prepared by CTA to the beneficiaries for review and comment. ▪ EPA, the Custodial Trust and American Chemet discussed feedback from Chemet attorneys and proposed revisions to Chemet's property expansion needs. ▪ EPA and the Custodial Trust met with the L&C County Historic Preservation Officer to discuss the County's proposal to create a Museum District in East Helena. ▪ H&H Metals issued official slag weights for the last shipment of unfumed slag loaded on rail cars and shipped from the Site on December 22. The Custodial Trust and H&H Metals discussed plans for meeting to address siting and rail access requirements associated with a long-term sale of unfumed slag. ▪ The Custodial Trust, American Chemet and Montana Rail Link, met on issues related to slag re-processing, requirements for rail access and siting re-processing facilities. ▪ The Custodial Trust and the Mayor of East Helena reviewed the status of City's issuance of a letter documentation the proposed changes to the parcels originally requested for conveyance from the Custodial Trust 	No Data Submittal	No problems encountered.	On Going
20. Community and Local Meetings	Custodial Trust	<ul style="list-style-type: none"> ▪ On January 18, EPA and the Custodial Trust held the EH annual public meeting at the East Valley Middle School. EPA, the Custodial Trust, the Mayor of East Helena and the L&C County Health Department made presentations on EH activities and accomplishments. 	No Data Submittal	No problems encountered.	On Going

SECTION 2. ACTIVITIES SCHEDULED FOR FEBRUARY 2012

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	No FSAP activities planned for February 2012.
Baseline Ecological Risk Assessment (BERA) and Human Health Risk Assessment (HHRA)	CH2M Hill, Exponent, Gradient	CH2M Hill to continue working on SLHHRA.
Corrective Measures Study	CH2M-Hill	CH2M Hill and subconsultants continuing preparation of SOW's for 2012 and 2013 CMS activities.
South Plant Hydraulic Control	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> Hydrometrics and EH Personnel will continue to monitor water levels, turbidity, and stream flows for the UL drawdown test. Continuation of Prickly Pear Creek diversion permitting.
Property Use/Development	East Helena	<ul style="list-style-type: none"> H&H Metals to continue slag crushing. Chemet, EPA, MDEQ, MDOJ, USDOJ, CTA, and MRL to discuss Chemet's expansion needs. Continue to pursue relocation of METG Administrative offices.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in February 2012.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in February 2012.
Water Treatment Plant	Custodial Trust	No plans to operate WTP in February 2012.
City and County Meeting	East Helena City Council/Custodial Trust	<ul style="list-style-type: none"> Presentation on SPHC interim measure at the Prickly Pear Land Trust (PPLT) annual meeting. Conference call with EPA, NREL, MDEQ, City of East Helena, Lewis & Clark County, MBAC, SMU and the Custodial Trust to kick off the renewable energy grant feasibility study.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly Beneficiaries meeting.
EHECTIC Meeting	Custodial Trust/EPA	Scheduled for April 4, 2012.

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in January 2012. A complete listing of projects completed in 2011 is listed below.

- 2011 FSAP activities were completed in November 2011.
- All 2011 Groundwater and Surface Water monitoring completed in November 2011.
- The Baseline Ecological Risk Assessment (BERA) was completed and submitted on December 16, 2011.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

There were no changes in personnel in January 2012.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President